

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 326/MP/2024 along with IA No.80/2024

- Subject : Petition under Sections 79 of Electricity Act, 2003 seeking extension of time for commissioning of 300 MW Solar Power Project from 20.10.2024 to 25.01.2025 in terms of this Commission's order dated 21.4.2024 in Petition No. 283/MP/2024 and order dated 12.7.2024 in Petition No. 192/MP//2024.
- Petitioners : ACME Solar Holdings Limited and Anr.
- Respondent : Central Transmission Utility of India Limited (CTUIL)
- Date of Hearing : **10.10.2024**
- Coram : Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
- Parties Present : Shri Basava Prabhu Patil, Sr. Advocate, ACME
Shri Vishrov Mukerjee, Advocate, ACME
Shri Girik Bhalla, Advocate, ACME
Shri Geet Ahuja, ACME
Ms. Poorva Saigal, Advocate, CTUIL
Ms. Shirin Gupta, Advocate, CTUIL
Shri Swapnil Verma, CTUIL
Shri Ranjeet Rajput, CTUIL

Record of Proceedings

Learned senior counsel for the Petitioners submitted that the present Petition has been filed seeking an extension of three months to commission the 300 MW Solar Power Project from 20.10.2024 to 25.1.2025. Learned senior counsel mainly submitted as under:

- (a) Earlier, the Petitioners had filed Petition No. 283/MP/2023 seeking conversion of the connectivity from the LoA route to the Land route, to utilise the connectivity dated 10.5.2022 granted to the Petitioner, ASHPL under the LoA route as the underlying PPA dated 4.4.2022 between ASSPL and MSEDCL was terminated due to force majeure event(s). The Commission vide order dated 21.4.2024 allowed the Petitioners to covert its connectivity granted LoA/PPA route to Land route as per Regulation 5.8(xi) of the GNA Regulations subject certain conditions including submissions of requisite land documents within four weeks; achieving the financial closure and release of 10% project cost under equity within three months, and achieving the commissioning of the project with six months.
- (b) While the requisite documents were submitted on 6.5.2024, CTUIL vide email dated 8.5.2024 raised a query asking for land documents to be in the name of ASHPL i.e. connectivity grantee and not ASSPL (subsidiary of ASHPL), failing which connectivity will be liable to be revoked. Accordingly, the Petitioners were constrained to file Petition No. 192/MP/2024 seeking declaration that the land documents in the name of ASSPL be considered as compliance with under Regulation 5.8(xi)(b) of the

GNA Regulations and permit the Petitioners to utilise the connectivity dated 10.5.2022 under the Land route.

(c) The Commission, vide order dated 12.7.2024, permitted the ASHPL to submit land documents in the name of ASSPL for complying with Regulation 5.8(xi)(b) of the GNA Regulations within a period of *two weeks* from the date of order (i.e. till 26.7.2024). However, the timeline for commissioning of the Project remained same as the order dated 21.4.2024 i.e. 6 months till 20.10.2024.

(d) Since no action or actual transfer of the connectivity was allowed by CTUUIL till the issuance of order dated 12.7.2024, the period from 21.4.2024 to 26.7.2024 ought to be excluded and the corresponding extension ought to be given to the Petitioners for achieving the commissioning of the Project.

(e) Pending acceptance of directions passed in order dated 21.4.2024 and after CTUUIL having raised queries of ASHPL's application on 8.5.2024, loan disbursement from the lender, PFC was also impacted. Clause 5 of the Additional Pre-Disbursement Condition of the Loan Sanction Letter required submission of the documentary proof demonstrating compliance that the LTA agreement is valid for sale of power from the project on a merchant basis. It was only after the order dated 12.7.2024 and submission of all documents to CTUUIL on 22.7.2024, the project loan was disbursed by PFC for an amount of Rs. 415 crores on 2.8.2024. Without such funds at appropriate time, construction activities could not have progressed.

(f) The Petitioners have already made substantial progress in completion of the project and are certain that the commissioning of the project will be achieved within three months as prayed for. In this regard, a project activity chart and site photographs were also circulated.

(g) Regulation 24.6(iii) of the GNA Regulations, as amended by way of Second Amendment) also provides that where connectivity has been granted under the LoA route, but is subsequently converted to the Land route under Regulation 5.8(xi)(b), then SCOD shall be considered as six months from the date of approval by CTUUIL of such conversion.

2. Learned counsel for the Respondent, CTUUIL submitted that the Petitioners have wrongly pleaded that the present Petition is an 'extension' of Petition Nos. 283/MP/2023 and 192/MP/2024 whereas, it is nothing but the review of the order(s) passed by the Commission in the earlier cases. Learned counsel further referring to the project activity chart circulated by the Petitioners pointed out that the Petitioners have already fallen behind the schedule / timeline as indicated by them in the Petition. Learned counsel added that even after getting the relaxations in both these Petitions from the Commission, the Petitioners have failed to abide by the commissioning scheduled stipulated by the Commission and present case is nothing but the abuse of the process of law.

3. After hearing the learned senior counsel for the Petitioners and the learned counsel for CTUUIL and perusing project activity chart circulated by the Petitioners, the Commission strongly disapproved the conduct of the Petitioners. The Commission observed that by the order dated 21.4.2024 in Petition No. 283/MP/2023 and order dated 12.7.2024 in Petition No. 192/MP/2024, the Commission proceeded to exercise its Power to Relax and Power to Remove Difficulties under the GNA Regulations, for allowing the dispensations as prayed for by the Petitioners, primarily in view of the substantial progress already made by the Petitioners and the Project being on the verge of commissioning. However, the Petitioners are now facing the breach of the condition of

achieving the commissioning of the Project by 20.10.2024 as stipulated in the order dated 21.4.2024. The Commission observed that the chart indicating the anticipated timelines for the Project activities as circulated also raises a doubt on the ability of the Petitioners to complete the Project even in the extended period of three months as now prayed. At the same time, the Commission also contemplated that the revocation of connectivity at this fag end may not only put the fate of the Project in complete jeopardy but might also lead to inefficient utilisation of the upcoming transmission element/assets kept reserved for such Project all along. In this background, the Commission expressed that if at all the prayers of the Petitioners were to be considered, it cannot be without any consequential liability on their part.

4. In response, the learned senior counsel for the Petitioners admitted that if the Commission so deems fit, the Petitioners are willing to furnish 'reasonable compensation' as a compensation for opportunity cost, to be credited to the common transmission pool. The Commission also queried the Petitioners and CTUIL on the aspect of the 'reasonable compensation', who in turn, sought liberty to file an appropriate affidavit in this regard.

5. Accordingly, the Commission directed the Petitioners to furnish the following details / information, on an affidavit, within a week:

(a) Firm date by which the Petitioner shall commission the project;

(b) Suggestion for 'reasonable compensation' to be deposited by the Petitioner.

6. Learned counsels for the Petitioners and the Respondent, CTUIL sought time to furnish on an affidavit within a week regarding suggestion for 'reasonable compensation' to be deposited by the the Petitioners.

7. Subject to the above, the Commission reserved the matter for order.

By order of the Commission
Sd/-
(T.D. Pant)
Joint Chief (Law)